

Gerry P. Fagan  
MOULTON BELLINGHAM PC  
27 North 27<sup>th</sup> Street, Suite 1900  
P. O. Box 2559  
Billings, Montana 59103-2559  
Telephone: (406) 248-7731  
Fax: (406) 248-7889  
Gerry.Fagan@moultonbellingham.com

Attorneys for Defendants Pantaenius America Limited, AGCS Marine Insurance Company, Liberty Mutual Insurance Company, and Torus Insurance Company

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION

GALILEA, LLC and TAUNIA KITTLER,

Plaintiffs,

-vs-

PANTAENIUS AMERICA LIMITED,  
ANDREA M. GIACOMAZZA, AGCS  
MARINE INSURANCE COMPANY,  
LIBERTY MUTUAL INSURANCE  
COMPANY, and TORUS INSURANCE  
COMPANY,

Defendants.

Case 2:18-cv-00037-SEH

**INSURER DEFENDANTS'  
UNOPPOSED MOTION TO  
CHANGE VENUE TO  
BILLINGS DIVISION, AND  
OPPOSED MOTIONS TO  
DISMISS, COMPEL  
ARBITRATION, AND/OR  
STAY THE ACTION**

Upon the accompanying memorandum of law, supporting papers, the arguments of counsel, and all of the files and proceedings herein, Defendants AGCS Marine Insurance Company, Liberty Mutual Insurance

Company, and Torus National Insurance Company (incorrectly named “Torus Insurance Company” in the caption) (hereinafter “Insurer Defendants”) by and through their attorneys, respectfully request that this Honorable Court:

- (1) issue an order changing the venue for this action to the Billings Division for the United States District Court for the District of Montana. Pursuant to LR. 3.2(b) and Mont. Code Ann. § 25-2-122, the Butte Division does not contain a county of proper venue under the laws of the State of Montana, and is therefore an improper venue for this action. The Billings Division contains the only county that is a proper venue for this action, and therefore, a change of venue to the Billings Division is appropriate under Local Rule 3.2(b). This motion is brought pursuant to L.R. 3.2(c) and Mont. Code Ann. § 25-2-122 in Defendant’s first appearance in this matter; and/or
- (2) issue an order: (a) compelling Plaintiffs to bring their disputes to arbitration in New York under the Rules of the American Arbitration Association (“AAA”) pursuant to the agreements to arbitrate set forth in the relevant policy of insurance, the Federal Arbitration Act, 9 U.S.C. § 1 *et seq.*, and the doctrine of *forum non conveniens*; and (b)

dismissing this action or alternatively staying it pursuant to 9 U.S.C. § 3; and/or

- (3) issue an order dismissing, with prejudice, Plaintiffs' claims pursuant to Rules 17 and 12(b)(1) and (6) of the Federal Rules of Civil Procedure; and/or
- (4) issue an order staying the captioned action pending the outcome of the AAA arbitration in New York in which Galilea, LLC and Mr. Chris Kittler are claiming the same alleged "damages in excess of \$1,566,500," as the outcome of that arbitration (commenced in 2015 and stayed by the District of Montana until February 9, 2018) could render moot the claims being brought in this new action; and/or
- (5) provide such other, further, and different relief as this Court may deem appropriate.

Pursuant to Local Rule 7.1(c)(1), Plaintiffs have advised that they do not object to the motion to transfer venue, but do object to the other motions.

**DATED** this 24<sup>th</sup> day of August, 2018.

MOULTON BELLINGHAM PC

By: /s/ Gerry Fagan

GERRY FAGAN  
ATTORNEY FOR DEFENDANTS